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ABSTRACT

The recent rise in political terrorism has brought to light the conflict between the government's duty to maintain order and the subsequent suspension of the news media's right to report the terrorists' activities to the public. Terrorists recognize that the surest guarantee of publicity for their cause lies in a shocking appeal to traditional news values. Journalists maintain that the public can react to the terrorist threat only if they are fully informed about the terrorists' activities. In Great Britain, following the increase in Ulster-related bombings, emphasis has been placed upon developing greater cooperation and collaboration between police and the news industry to facilitate a campaign against terrorism. An aggreement between the two provides for a voluntary reporting blackout in kidnapping or hostage cases, in exchange for daily briefings and full disclosure of the details by the police once the victims are recovered. A similar agreement stands between New Scotland Yard and the British Broadcasting Corporation (BBC). Since such a program requires mutual trust and cooperation from both sides, these agreements have been successful only up to a point. Regardless, the British experience seems to trace the limits of free expression in a society burdened with a long campaign against terrorism. (HTH)

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Qualitative Studies
Division

TERRORISM IN BRITAIN:
ON THE LIMITS OF FREE EXPRESSION

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Terrorism, wrote historian Walter Laqueur, occurs only in permissive democratic societies or ineffective authoritarian regimes.(1) His studies of terrorist activities over the past century indicate that violent protests do not appear where despotism is worst; terrorists seem to appreciate that there is no future in challenging effective dictatorships.(2)

But political terrorism remains an especial burden of the industrialized democracies of Western Europe and North America. Figures produced by the Central Intelligence Agency show that between 1968 and 1978, about half of the world's recorded terrorist incidents occurred in these regions.(3) The openness of these societies and the civil liberties enjoyed by their citizens seem to appeal to those who use violence as a political expression. There can be little doubt, however, that governments in the liberal democracies can act to preserve the stability of their civil societies when they feel threatened by terrorism. Ultimately, repressive legal measures can be adopted to protect the social order and the might of modern, well-equipped police and military authorities can be unleashed against the terrorists.(4)

But this strategy is at base self-defeating: there is an inherent contradiction in restricting a society's civil liberties in the interests of preserving the liberal basis of that society. As a British commentator on terrorism has noted, "One of the reasons why terrorism is such a virulent poison is that the cure can damage society as much as the disease can."(5)

Central to this paradox are the roles of the news media in the democratic society. Modern terrorism and journalism have developed what has been referred to as a symbiotic relationship. Terrorists have recognized that the surest guarantee of publicity lies in a shocking appeal to traditional news values; journalists respond that members of the public can react to the terrorist threat only if they are informed fully about the terrorists' activities. Dr. Frederick Hacker, a Beverly Hills psychiatrist and consultant on terrorism, said that the "mass media and terrorism are made for each other--if they didn't exist independently, they would have to invent each other."(6) Laqueur wrote on the same issue: "Terrorists and newspapermen share the naive assumption that those whose names make the headlines have power, that getting one's name on the front page is a major political achievement."(7)

It follows that questions have been raised as to whether restrictions of the press (including both newspapers and broadcast agencies) might not be necessary parts of the campaign against terrorism. Though a few American public officials have expressed this sentiment, for the most part greater emphasis in this country has been placed upon developing greater cooperation and collaboration

between public authorities and the news industry to ensure that reporters and their news organizations do not become the instruments of terrorists. Rather than legalistic solutions that would endanger press freedoms, affirmative steps by government and police authorities have been promoted. As the federal Task Force on Disorders and Terrorism--composed mainly of police and public officials--concluded in December 1976:

> "A free and responsible news media is a most effective educative device and an indispensable bulwark against oppression. These potentials for good should be positively recognized by the civil authority; it should modify its policies sensibly and adapt its institutions and procedures to working with the media in the public interest."(8)

Numbered among the Task Force's specific recommendations for improving police/press relations during emergency situations were the proposal that police departments hold regular forums with the news media to discuss ground rules for the reporting of violence and terrorism, and the suggestion that police officials encourage attempts by the news media to develop self-regulating standards that would govern their reporting of terrorism. Measures of this sort--in particular those to be followed in kidnappings and hostage cases--have been developed by the Federal Bureau of Investigation in cooperation with news organizations.(9)

These proposals have been based, however, upon the assumption that the press will assume greater responsibility for its actions. In a sense, the whole debate has been reminiscent of the Hutchins Commission's pragmatic optimism of 1947: the press should be left free to control itself so long as it controls itself.(10) The federal Task Force noted, for example, that "...these proposals

may appear to contemplate a species of self-censorship alien to the traditions of the American free press; in fact, however, they are believed to represent examples of spontaneous accommodation to overriding public interest that are neither foreign to the standards of professional responsibility that now prevail in the news industry, nor without significant precedent in present news media practices."(11) But the Task Force also recognized that for historical and economic reasons the news industry is highly competitive, and no self-regulatory policy can be expected to work unless news organizations cooperatively develop both such a policy as well as the means to make it work. The news media's responses have been mixed; several major newsgathering organizations formulated terrorism-coverage guidelines though in fact these policies provide little more than restatements of their conventional operating practices. Others steadfastly resisted; as the executive editor of the New York Times explained his opposition, "I don't want guidelines from the government and I don't want any from professional organizations or anyone else. The strength of the press is its diversity. As soon as you start imposing guidelines, they become peer-group pressures and then quasi-legal restrictions."(12)

At this point the discussion virtually has ceased--perhaps because political terrorism within the United States has not been recognized as a sustained and pervasive problem. But where terrorism is an everyday occurrence, the news media role is still problematic. This paper concentrates upon recent events in England, site of continuing Ulster-related violence. Press and government relations there have been marked by similar appeals to the professional standards of journalists, and voluntary agreements governing the reporting of kidnapping, terrorism and other

police matters have been negotiated between the police and the news media. The British experience is unique, however, in one respect. In spite of attempts at cooperation between the authorities and news media, the new Conservative Government has twice threatened to apply anti-terrorist legislation against the press itself.

THE BRITISH RESPONSES TO TERRORISM IN ENGLAND

Terrorist violence, Ulster-style, arrived in England in 1972 with an explosion near a British Army officers' mess in Aldershot that killed seven people. British authorities recorded 86 terrorist incidents in the next year which resulted in one death and 380 injuries.(13) The Irish Republican Army's terror campaign intensified in 1974: more people (45) were killed by political violence in England in that year than in all previous years of the 20th Century combined.(14) The heaviest casualties occurred on 21 November 1974 when 21 people were killed and 162 injured by bombs placed in two crowded pubs in Birmingham.

The government responded to the Birmingham bombings with The Prevention of Terrorism (Temporary Provisions) Act 1974--legislation described at its introduction by the Home Secretary as 'draconian' and 'unprecedented in peacetime'. The law, among other things, proscribed the IRA and banned public displays of support for it; empowered the Home Secretary to deport or prohibit entry to persons connected with terrorist acts in Great Britain, Northern Ireland or elsewhere; enlarged the police authorities' power of arrest and

detention; and gave the police wide powers to carry out security checks on travelers entering or leaving Britain or Northern Ireland.

Though the Act was aimed at the IRA (the only organization proscribed under the law) and not journalists, a number of its provisions could be construed as applying to reporters working on stories involving Ulster and Irish terrorism. Section 1 made it illegal for any person to solicit or invite "financial or other support for a proscribed organisation." This would seem to prohibit "checkbook journalism," or stories in which IRA sources were paid for their interviews, as well as raise questions as to when a news story "invites support" for its subject. Section 11 stipulated that a person who withholds information which might be of material assistance in preventing an act of terrorism or securing the arrest of a terrorist would be liable under the law. Other provisions made it an offense to set up meetings of three or more persons that would be addressed by a person who was a member of the IRA, and to assist persons to wear the insignia of the IRA or wave a placard in support of it (camera crews, for example, could not ask IRA members to wave their placards while the bright lights were on).(15)

Until the summer of 1979, however, the anti-terrorist legislation was not seen as a method of regulating media reporting of terrorism. In fact, a review of the Prevention of Terrorism Act in 1978 did not link the Act with news reporting in any way. Its author did describe Section 11 as having "an unpleasant ring about it in terms of civil liberties" and recommended that it be permitted to lapse, but apparently not because of its inhibiting effect upon the news industry.(16)

Armed with the anti-terrorist legislation, the Special Branch of the Metropolitan Police (New Scotland Yard) stepped up its campaign against Irish terrorists late in 1974. (Though the Metropolitan Police have jurisdiction only in the Greater London region, its Special Branch was established in the 19th Century to deal with Irish terrorism and still has national responsibilities with regard to Irish Republicanism.) Senior Metropolitan Police officials simultaneously took the initiative in attempting to develop closer relations with the news media. While not strictly part of the government's anti-terrorist effort, this public relations campaign was based upon the idea that the police would retain public support for their activities--both those involved in ordinary policing and those used in combating terrorism--to the extent that they were able to obtain favorable news coverage.

Sir Robert Mark, then Metropolitan Police commissioner, elaborated this strategy in a news policy statement he wrote for New Scotland Yard (see Appendix B for the entire statement). "There is no doubt that the operational effectiveness of the Force is to a very large extent dependent upon the goodwill, co-operation and support of members of the general public," he wrote. Because most members of the public have only infrequent contact with the police, their attitudes toward the police are filtered through the eyes of the news industry. "It is therefore of the utmost importance that every effort should be made to develop and maintain good relations with the news media representatives in order to render it more likely that their coverage will be full and fair." Mark modified Yard procedures to ease the dissemination of news to media representatives and to make police facilities more available to reporters,

and clarified police regulations regarding the ranks of officers who would be permitted to disclose information to the news media.

But Mark and his successor, Commissioner David McNee, also negotiated two 'gentlemen's agreements' with the news industry that in varying degrees govern the reporting of police activities. The first provides for a voluntary blackout or reporting moratorium in kidnapping or hostage cases; in return, the news media receive daily briefings from senior police officials and full disclosure of details of the case once the hostage or kidnapped person has been recovered. The voluntary blackout has been put into practice once; in 1975 a kidnapped girl was held in London for nine days without the incident even being mentioned in the press. The second agreement, signed in March 1979, attempts to clarify the relationship between New Scotland Yard and the British Broadcasting Corporation's news and current affairs department (see Appendix A for a copy of the agreement). This agreement establishes the procedure BBC producers must follow when making programs on subjects which the Metropolitan Police consider to be 'delicate' or 'potentially sensitive.'

Editors and police officials interviewed in London last summer generally considered the two agreements to be of some value in clarifying relations between institutions which often find themselves at odds. Because they are informal, voluntary statements of principle, they are seen as ways of providing news media cooperation without sacrificing the independence of the press; the agreements could be broken by the press when it was felt that a given situation demanded publication. And certainly they were preferable to formal controls the government might apply under the Prevention of Terrorism Act.

VOLUNTARY NEWS BLACKOUT ON KIDNAPPINGS

The voluntary moratorium on news of kidnappings has its origins in a murder case in the English Midlands in January 1975. Shortly after a girl named Lesley Whittle was abducted, a free-lance radio reporter heard of the kidnapping and asked the local police for details. The police refused to comment while the girl was missing, and the reporter broke the story over a local radio station. Two months later her body was discovered.

Tense relations between the press and police in the Whittle case led to a conference in September 1975 at New Scotland Yard between senior police officials and editors and senior executives of the national press, radio and television, representatives of the international press based in London, the provincial and sub-urban press, and local radio stations. Sir Robert Mark and his staff proposed that a broad 'code of conduct' be adopted to govern the reporting of similar incidents, but no firm agreement was reached at the conference.

These initial negotiations were overtaken by events in Novem-ber of that year, however, when a Greek Cypriot girl, Aloi Kaloghirou, was kidnapped in North London and a ransom demanded from her family. The Yard's proposed moratorium was implemented with the agreement of London editors: news organizations were informed of the kidnap and ransom demand, but never provided with specific names, locations or other details. Reporters assigned to the case received daily briefings from a senior police official. No mention of the kidnapping was made by the major national and London news organizations. Early on the tenth day the girl was

released and her kidnappers arrested. Reporters were summoned to New Scotland Yard for a complete briefing, and the embargo was lifted.

Police officials were pleased with the news media's cooperation, and believed the moratorium had worked successfully. A Yard spokesman said that news reporters seemed to exhibit more anxiety about the behavior of their fellow journalists--and whether someone would break the blackout, scooping the opposition--than concern about whether the police would honor their part of the agreement.

Editors of several national newspapers and television organizations based in London agreed that the moratorium had worked--on this occasion. But this is no guarantee that the press would cooperate another time. "It would depend very much on the circumstances of each individual case--I wouldn't accept that every single time someone is kidnapped that we wouldn't publish anything until they've caught the kidnapper," said Derek Jameson, editor of the London Daily Express.(17) Most editors agreed with Don Horobin, deputy editor of Independent Television News (the commercial network's news agency), who said that the only justification for the agreement is "in the interests of saving lives. Protecting property is a different ballgame; if there is no threat to life, then it is a news event." Horobin also said that press cooperation is contingent upon the police maintaining their share of the bargain: "The Yard cooperation has been very good--it has been absolutely smack on. But they known damn well that if they let us down, future agreements would go through the window."(18) For it to work, the agreement requires total adherence from all members of the press as well. Said Mike

Mulloy, editor of the London Daily Mirror, "What happens if someone gets a break on the story? If somebody breaks it then it all goes....we either all play the game, or..."(19)

British journalists also question whether the agreement could or should be extended to cover terrorist incidents. Peter Harland, a London journalist, has pointed out that political terrorism in Britain has been defused considerably by the government's practice of treating any violent incident that does not constitute a direct threat to the state in the same manner as any other crime, and not as a political offense. Therefore, the IRA has had to refuse to recognize the criminal courts and go on hunger strikes in prison to "redress the publicity balance."(20) Mulloy of the Daily Mirror said that in his estimation the moratorium would not necessarily apply to incidents of a political nature, but his newspaper might honor a request from the government--not the police--for a temporary blackout if the crimes being committed were political. "If there was a wave of terrorist activities....I can't say that we wouldn't report it. The only way it would happen (a blackout) would be if we had a governmental approach." Other editors observed that the nature of the terrorist violence experienced in England in recent years and the high levels of activity by the IRA's publicity wing have meant that news blackouts or moratoriums have not had to be considered.

The editors said that they had cooperated in the Kaloghirou case because police officials had been persuasive in making their case. Ultimately, however, the decision must remain in the hands of the news media. As Tony Crabbe, managing editor of BBC

Television News, described his organization's attitude:

> "The fact that we've done it once doesn't mean to say that we won't think very hard next time we're approached on something like that. Fine. It worked. It's every occasion on its merits. And what we must not have is any legal obligation on us not to publish. It's got to be up to us as journalists to decide the merits of the argument the police are putting to us. And if we feel yes, on balance the public interest is better served by withholding information, we'll go along with it. But we retain the right...of publishing." (21)

In spite of these qualifications from representatives of the news industry, the Scotland Yard news blackout has been adopted by the Home Office as part of its campaign against terrorism. In a circular to Britain's 51 chief constables (chiefs of police) in August 1976, the Chief Officer of Police advised that "the increasing prevalence of terrorism and of the use of quasi-terrorist techniques in the pursuit of crime is likely to lead to situations in which the police find it necessary to ask press and broadcasting reporters not to publish information which comes into their possession, at any rate until the situation has been resolved."(22) The police have no power to enforce such requests, the circular noted, and any such request represents "an encroachment upon freedom of the press." Because the print and broadcast organizations must be the judges of what use to make of information they obtain, the onus lies with the police to explain why such a request is being made. Where such requests are made, the Home Office suggested that these guidelines be followed:

> (1) There is no general rule as to what constitutes a justification for such a request. In a hostage or kidnapping case, the request should be made only to protect the lives of innocent persons. The fact that disclosure might impede or prejudice police operations is not sufficient justification, unless the obstructions of these operations would put people's lives at risk.

(2) The Press Association (the domestic news agency of the United Kingdom and the Republic of Ireland) has agreed to circulate a request to withhold information from a chief constable to member news organizations if a person's life is at risk.

(3) The police official requesting a blackout should be prepared to answer off-the-record questions from journalists regarding his reasons for the request.

(4) The request not to publish should be strictly confined to information which is demonstrably likely to endanger the lives of innocent persons. Total blackouts should be requested only in highly exceptional circumstances.

(5) The period of press restraint should not exceed 48 hours; fresh requests should be made for extensions, if necessary.

(6) Reporters should be kept as fully informed as possible of the progress of police operations during the period of restraint.

(7) If editors feel that they need a second opinion while considering the request to withhold information, they should consult the Director of Information Services at the Home Office.

In May 1977, new Metropolitan Police Commissioner David McNee agreed to add an additional element to New Scotland Yard's blackout agreement. During a voluntary news moratorium, a Press Association news editor--acting as a "pool press person" on behalf of all cooperating news organizations--would be stationed at police headquarters, and would be permitted to monitor the investigation, ensure that press briefings were complete and frank, and prepare a round-up report on the incident at its conclusion. This report would be available to cooperating news organizations and subscribers to Press Association services.(23)

BBC-NEW SCOTLAND YARD AGREEMENT ON SENSITIVE PROGRAMMING

The agreement reached in March 1979 between the Metropolitan Police and the BBC grew out of a series of documentary and

dramatic programs which police officials believed presented the police and their activities in an unsympathetic and unjust light. The BBC's broadcast in April 1978 of the realistic dramatic series, "Law and Order,"--which portrayed corruption in the judicial system, police and prison service--led to a request from the Metropolitan Police for a formal, legally binding contract with the BBC which would have given New Scotland Yard the right to advance viewing of all material about it and, if necessary, the right to prevent its transmission.(24)

The BBC regarded the Yard's request as a form of censorship and resisted the idea of a legal contract. Nine months of negotiations--which at one stage involved top-level meetings between the Director-General of the BBC and the Metropolitan Police Commissioner--resulted in the present, informal agreement, which is to govern the BBC's programming on "cases which the Metropolitan Police consider delicate, affecting privacy, 'sub judice', national security and such areas" (see Appendix A). Straightforward news items and features on police work (such as the opening of new police stations and the introduction of new vehicles and equipment), are excluded from the agreement.

The guidelines establish the procedure BBC producers must follow when making programs in "potentially sensitive" areas that require Metropolitan Police cooperation and the use of police facilities. The producer involved must meet with a representative of the Yard's 'P' Department to describe the program and the subjects to be covered. The understanding reached in this conference must then be put in writing. The police must be informed of subsequent alteration of the producer's plans, and further meetings

would be held to sort out any disagreements that arise. The police could complain to the BBC in advance of the program's transmission of any violations of the agreement and, if necessary, register a formal complaint with the Director-General of the BBC.

Spokesmen for both the BBC and New Scotland Yard predicted that the agreement would not need to be used frequently. Richard Francis, BBC director of news and current affairs, was quoted as describing the agreement as merely a formal statement of the BBC's standard operating procedures, and that it did not involve any surrender of editorial responsibility.(25) However, a BBC news executive conceded in an interview that the police might interpret the guidelines more rigidly than the broadcasters, particularly in determining what is a 'delicate' or 'potentially sensitive' area or when 'national security' is involved. In addition, publicity of the agreement has led to the fear at the BBC that other organizations might follow the Yard's lead and seek their own informal 'understandings' with the corporation.

Though the agreement applies only to the BBC-Metropolitan Police relationship, at the time of writing the police were expecting to begin negotiations with commercial broadcasting's Independent Television News agency with the aim of establishing a similar understanding.

ANTI-TERRORIST LEGISLATION AND THE NEWS MEDIA

The summer of 1979 marked the tenth anniversary of the period when the British Army had to assume responsibility for security

in part of its own country. The conflict in Northern Ireland has posed a confounding set of moral dilemmas for the journalists assigned to report on the continuing conflict and its spillover of terrorism into England. How does a journalist report the actions of his nation's army when it is campaigning in his own land, occasionally committing acts of violence against some of his own people? How does he dispassionately explain the activities of a terrorist organization dedicated to driving the British from Ireland, and proven capable of scoring its own set of successes? John Whale, an editorial writer for the London Sunday Times, described these dilemmas in distinguishing between the reporter's roles as journalist and as citizen. As a reporter, he does not have to make choices; he could report things as he found them. But as a citizen, he had to recognize that his journalistic work could make one outcome of the conflict a little likelier than another:

> "For a journalist, there is a tension between the claims of his country and the claims of his work. It cannot be shrugged off with a word about allegiance owed only to humanity at large. A journalist is a member of the State he lives in, like it or not, and he accepts the obligations with the benefits of membership. The tension can never be entirely resolved." (26)

Others in Britain agree with Whale that the journalist's ultimate responsibility must be to his own society and its government. Conor Cruise O'Brien, editor of the London Observer, argues that there is no purely military or political solution to the problem of terrorism, but supporters of the democratic system might fight terrorism by refusing to negotiate with terrorists and by depriving them of the publicity they seek.(27) O'Brien, a former member of parliament in the Republic of Ireland and that country's minister of posts and telegraphs, imposed a ban on the Irish state broad-

casting service (RTE) prohibiting it from carrying interviews with IRA spokesmen and sympathizers on the grounds that the IRA was a terrorist organization and a danger to the state. "I accept it as the propaganda wing of a criminal organization: a public relations agency for a murder gang."(28)

No such ban exists in Britain and Northern Ireland, though some argue that it should. Paul Wilkinson, a British political scientist, argues that his government is "dragging its feet" on this aspect of anti-terrorist policy:

> "It is surely crazy to allow spokesmen for terrorist out to destroy the state to enjoy all the advantages of broadcasting their message of hatred and fanaticism and to inspire their small cadre of militants to further outrages. That would not simply be an abuse of liberty: it would be the more irresponsible licence. Yet, under present British broadcasting practice, that is what is allowed to happen!
>
> "I believe that it is not undemocratic in the least to ban murderers and apologists for terrorist crimes from the broadcasting services which reach into practically every home. For if there is an ultra-pornography of violence then they are its ultimate representatives. And I do not see that it does any service to our democracies or our cultural and intellectual life to indulge such evil." (29)

As a public service broadcasting agency dependent upon state financing, the BBC has guarded its independence zealously--but cautiously. It has been argued, for example, that the BBC has avoided government controls of its coverage of the Northern Ireland conflict by adopting a "responsible" perspective on the war that is essentially the State's interpretation of the conflict.(30) While the BBC will not prohibit its journalists from presenting interviews with terrorists, such news items are shown only infrequently and only after permission has been obtained in advance from the Director-General of the BBC. As a BBC news executive described the corporation's tradition of editorial freedom and responsibility:

> "We do often decide not to publish, but we retain the right to (publish)--we don't always publish everything, but we can publish everything. Because we <u>don't</u>, we <u>can</u>. Because we are able to point to times when we have used the medium responsibly, we then can say that, of course, we are ultimately the deciders, we can decide what can go out." (31)

However, the Conservative Government of Mrs. Margaret Thatcher (elected in May 1979) twice used the anti-terrorist legislation last year in questioning the BBC's use of its editorial independence.

On July 5, 1979, the BBC broadcast an interview with an anonymous member of the Irish National Liberation Army, a small terrorist organization that claimed responsibility for placing the bomb that in March had killed Airey Neave M.P., then Opposition spokesman on Northern Ireland, at the House of Commons in London. The interview with the terrorist, who wore a wig, false moustache and dark glasses, was filmed in Dublin.

A week later Mrs. Thatcher strongly criticized the BBC's action: "Having seen a transcript of this programme, I am appalled it was ever transmitted. I believe it reflects gravely on the judgment of the BBC and those who were responsible for the decision." The Prime Minister said that she had requested the attorney general to determine whether the BBC had broken any law with the interview and broadcast.(32) Three days before the broadcast, the government had announced that the INLA was being added to the list of political organizations outlawed in Britain and Northern Ireland under the <u>Prevention of Terrorism Act</u>. Prior to the INLA broadcast, the Act had not been suggested as a method of regulating media reporting of terrorism. In Northern Ireland itself, news reporters are in regular contact with members of banned organizations but the anti-terrorism legislation has not been used against them.(33)

Many others joined the Prime Minister in her rebuke of the BBC, however. Neave's widow said that the interview was "extra-ordinarily one-sided and unfair," and that she was grief-stricken that a terrorist was "given ample scope to besmirch the memory of my husband."(34) Merlyn Rees, a former Northern Ireland secretary in the Labour Government, said in a letter to the BBC that, "In my view it was a grave error to show on TV a man claiming to be an organiser of a murder gang. I can only hope that details of the man and his activities have been passed to the Irish Garda (police) and to the Special Branch." The Lord Mayor of London said: "What a pity it is when an institution like the BBC puts someone who claims to have assisted in the murder of Airey Neave on the box and gives him a platform." The Bishop of Chester asked in a letter to the Daily Telegraph: "What is the limit of responsibility, at law, of the investigations by able journalists and media-men and the publication of their work? If I am aware of the identity of a person who has committed a serious crime, am I not required as a citizen to inform the appropriate authorities? If I pay money to a self-confessed traitor and murderer in order to gain a supposedly valuable news-story, am I not myself a traitor and guilty of 'aiding and comforting' the enemy?"(35) Another critic of the BBC's ethics, Lord Chalfont, wrote in an article in Financial Weekly:

> "As an example of perverse irresponsibility it would be difficult to match the spectacle of a state-sponsored broadcasting organisation transmitting a television interview with a terrorist who used the occasion to admit complicity in the recent murder of a Member of Parliament. The excuse that it was a 'newsworthy event' and, therefore, in some way excluded from the normal canons of human behaviour is symptomatic of the state of moral and intellectual confusion which the organs of public communication consistently display on the subject of terrorism." (36)

The BBC held firm in face of this public outcry, however. Sir Michael Swan, chairman of the BBC board of governors, promised only that the corporation would review its guidelines regarding interviews with terrorists. The guidelines say only that on very rare occasions the BBC will show interviews with terrorists when it is thought the interview will contribute to public understanding. Permission of the Director-General must be obtained before the interview and before the film is broadcast.(37) Ian Trethowan, BBC Director-General, summarized the BBC's position in a letter to the Daily Telegraph by pointing out that the BBC had televised only four such interviews in the previous ten years, and none in the past five years. "We believe that the public has the common sense and stability to judge very accurately the character of the people they are seeing. They recognise a murderous thug for what he is....We do not believe that a BBC interview with the INLA will worsen by one iota the central problem of Northern Ireland: the inability of the two communities to reach rational settlement of their problems."(38) At the time of writing, the government had not announced whether it would proceed against the BBC for the INLA interview.

The INLA interview was superseded, however in November by Mrs. Thatcher's announcement in the House of Commons that the BBC would not be transmitting a "Panorama" television program that included footage shot at an IRA roadblock in the village of Carrickmore, County Tyrone, in Northern Ireland. New Scotland Yard was making an investigation into possible offenses under the Prevention of Terrorism Act in the incident.

Accounts of the incident varied, however it appears that a

four-man "Panorama" crew was in Ireland preparing a major project on the banned Provisional IRA. After receiving an anonymous telephone tip in Dublin, the crew drove 200 miles to Carrickmore and filmed several armed men stopping cars at an illegal roadblock for about 12 minutes.(39) Apparently both the Northern Ireland police, the Royal Ulster Constabulary, and the British Army knew of the incident the day it happened and the BBC crew informed "Panorama" editors that night.(40) Both the police and army withdrew their cooperation from the project.

After complaints about the incident were filed with the BBC, the corporation's board of governors made an internal inquiry and referred to the incident as "a relatively peripheral matter which was initially grossly exaggerated and misrepresented."(41) Though the governors were satisfied there was no collusion between the program's producer and the IRA, two BBC editors were reprimanded and the corporation's rules governing filming in Ireland were tightened still further.(42)

It is possible that no sanctions will be imposed against the BBC in either case. But as one British legal commentator noted, the involvement of the government in the two cases can have a chilling effect on future reporting of Ulster terrorism: "Now every journalist preparing a programme on terrorism in Northern Ireland must reckon on at least the possibility of a Government-promoted police investigation into his conduct, his sources and his researches."(43) Reporters and television executives of course are not above the law and cannot be immune from prosecution for giving illegal assistance to terrorists.

> "But if referral by the Government becomes a matter of course for every programme which earns ministerial displeasure,

> it will begin to look suspiciously like a big stick to beat recalcitrant broadcasters whose house lacks that 'order' which the Government would like to impose. It may be that the authorities will come to regard the very act of filming terrorists or their activities as a good prima facie reason to despatch police on newsroom fishing expeditions: in which case, the Prevention of Terrorism Act could provide a capacious back door for ministerial influence on programmes about Northern Ireland." (44)

Regardless of the outcome, the British experience seems to trace the limits of free expression in a society burdened by a long campaign against political terrorism. In spite of expressed concerns about the news media's professional responsibility, the development of voluntary understandings between communicators and the authorities, and the perpetuation of valued civil liberties, the political order will place its highest priority upon protecting itself. Stretched to this extreme, the functions of informing a free society and protecting it can be seen to be in direct conflict. And this is the peculiar contribution of terrorism to our understanding of the mass media in a democratic society.

FOOTNOTES

(1) "The Continuing Failure of Terrorism," Harper's Magazine, November 1976, p.71; "The Futility of Terrorism," Harper's Magazine, March 1977, p.103.

(2) Walter Laqueur, Terrorism (1977), Little Brown & Company, Boston.

(3) "International Terrorism In 1978," National Foreign Assessment Center, Central Intelligence Agency, March 1979, p.7.

(4) For a useful review of legal responses to terrorism taken by governments around the world see: Jordan J. Paust, "International Law and Control of the Media: Terror, Repression and the Alternatives," Indiana Law Journal, Vol. 53, No. 4, Summer 1978, pp. 621-78.

(5) Richard Clutterbuck, Living with Terrorism (1975), Faber & Faber, London, p.17.

(6) David Haldane, "Interview with Dr. Frederick J. Hacker," Penthouse Magazine, November 1977, p.141.

(7) "The Futility of Terrorism," op. cit., p.99.

(8) Department of Justice, Law Enforcement Assistance Administration, National Advisory Committee on Criminal Justice Standards and Goals, Disorders and Terrorism: Report of the Task Force on Disorders and Terrorism (1976), Standard 4.10, p.65.

(9) Stephen D. Gladis, "The Hostage/Terrorist Situation And the Media," FBI Law Enforcement Bulletin, September 1979, pp.11-5.

(10) Commission on Freedom of the Press, A Free and Responsible Press (1947), University of Chicago Press, Chicago. See for example the discussions on pp.18-9 and 125-8.

(11) Report of the Task Force on Disorders and Terrorism, op. cit., p.389.

(12) David Shaw, "Editors Face Terrorist Demand Dilemma," Los Angeles Times, September 15, 1976, p.14. For a longer discussion of the news industry's response to terrorism and the construction of news coverage guidelines, see Walter B. Jaehnig, "Journalists and Terrorism: Captives of the Libertarian Tradition," Indiana Law Journal, Vol. 53, No. 4 (Summer 1978), pp.717-44.

(13) Review of the Operation of The Prevention of Terrorism (Temporary Provisions) Acts 1974 and 1976 (Shackleton Report), Home Office, London, August 1978, p.1.

(14) Richard Clutterbuck, Britain in Agony: The Growth of Political Violence (1978), Faber & Faber, London, p.146.

(15) For a recent discussion of the effects of anti-terrorist legislation on British journalism, see Geoffrey Robertson, "Panorama and Mrs. Thatcher," The Guardian Weekly, 18 November 1979, p.5.

(16) Shackleton Report, op. cit., p.41.

(17) Personal interview with the author, London, 28 June 1979.

(18) Personal interview with the author, London, 29 June 1979.

(19) Personal interview with the author, London, 27 June 1979.

(20) "Politics and greed: when lives are at stake, where is the difference?" IPI Report, November 1977, p.7.

(21) Personal interview with the author, London, 2 July 1979.

(22) Home Office Circular 128/1976, 18 August 1976, p.1.

(23) Information provided by Peter Freeman, chief news editor, the Press Association, London.

(24) See stories in The Guardian, 11 and 12 June 1979, regarding the BBC-New Scotland Yard agreement.

(25) Ibid.

(26) John Whale, The Politics of the Media (1977), Fontana, London, pp.127-8.

(27) Conor Cruise O'Brien, "Liberty and Terrorism," International Security, Vol. 2, No. 2 (Fall 1977), pp.66-7.

(28) Paul Wilkinson, Terrorism and the Liberal State (1977), New York University Press, New York, pp.168-9.

(29) Ibid., p.169.

(30) See Philip Schlesinger, Putting 'reality' together (1978), Constable, London, pp.205-43.

(31) Personal interview with the author, London, 2 July 1979.

(32) Daily Telegraph, 13 July 1979, p.1.

(33) Observation by the author following interviews with journalists, army and police officials in Northern Ireland, July 1979.

(34) Daily Telegraph, 13 July 1979, p.1.

(35) Ibid.

(36) "There should be no free publicity for terrorists," Financial Weekly, 13 July 1979, p.9.

(37) Daily Telegraph, 14 July 1979, p.9.
(38) Daily Telegraph, 14 July 1979, p.14.
(39) The Times, 16 November 1979, p.4.
(40) The Observer, 11 November 1979, p.1.
(41) The Times, 17 November 1979, p.2.
(42) The Times, 21 November 1979, p.2.
(43) Robertson, op. cit.
(44) Ibid.

APPENDIX A

AGREEMENT ON PROGRAMMING IN SENSITIVE AREAS
METROPOLITAN POLICE (LONDON) AND
BRITISH BROADCASTING CORPORATION
(6 March 1979)

(1) These points are only for cases which the Metropolitan Police consider delicate, affecting privacy, "sub judice", national security and such areas. They are not for news items or straightforward current affairs features on police work--e.g. the opening of new police stations, the introduction of new vehicles and equipment, etc.

(2) When embarking on a potentially sensitive programme, a BBC producer would meet with somebody from 'P' Department to talk over the subject and the area the BBC wished to portray, as well as the facilities they considered necessary to do this. The programme area would be defined as clearly as is possible at this stage. Afterwards, the BBC producer would send a letter to the Metropolitan Police setting out what had been agreed.

(3) The Metropolitan Police would then agree the letter's contents and acknowledge that it covered the necessary points.

(4) The Metropolitan Police would be kept informed of any subsequent changes of plan and, if necessary, a further meeting would be convened to agree any alterations. Similar talks would be held between the Police and the BBC to sort out any disagreement.

(5) It would be open to the Metropolitan Police to write to the BBC outlining anything they thought went against an agreement between them. The BBC would then look into the matter and report their findings to the Metropolitan Police.

(6) If the Police were not satisfied, they could register a formal complaint with the BBC's Director-General.

(signed)

Peter Neivens,
Deputy Assistant Commissioner,
Director of Information,
Metropolitan Police

Richard Francis,
Director,
News and Current Affairs,
BBC

APPENDIX B

METROPOLITAN POLICE (LONDON)
POLICY ON RELATIONS WITH THE NEWS MEDIA

(1) There is no doubt that the operational effectiveness of the Force is to a very large extent dependent upon the goodwill, co-operation and support of members of the general public. There are two main ways in which public backing can be obtained or strengthened. The first is obviously by the adoption of a courteous and helpful attitude at all possible times by every member of the Force. The second, equally important, is by means of publicity given to the activities of the Force in the press and on television and radio.

(2) Most members of the public come into direct contact with policemen infrequently and it follows that their image of and attitude towards the Force, when not dictated by hearsay, is largely governed by the approach adopted by the news media. It is therefore of the utmost importance that every effort should be made to develop and maintain good relations with news media representatives in order to render it the more likely that their coverage of police activities will be full and fair. Furthermore, if the Force as a public service is to be properly accountable for its actions the public has the right to the fullest possible knowledge of its activities.

(3) In view of the fact that police sources supply a very large amount of important and interesting news material to the press, television and radio, it would seem that the maintenance of good relations should present no particular problem. Of course, the Force has to face certain restrictions on the disclosure of information which stand in the way of establishing a better relationship with the press. The most important of these restrictions arise from the judicial process, in both criminal and disciplinary cases; the special position of the Metropolitan Police in relation to the Home Secretary as police authority, affecting the discussion of policy matters; the obligation to conform to common policies agreed by chief constables with the Home Office; the need to maintain a substantial degree of uniformity of policy throughout the Metropolitan Police District; the requirement to be as fair as possible to all the news media; the need to observe the individual's right to privacy; and the paramount need to put the public interest before that of either the Force or the press.

(4) However, relations with the news media are not as good as they could be; there is in particular a reluctance to accept that the role of the news media is to obtain and disclose to the public as much information as possible and that in pursuance of this role they are of course properly concerned with the affairs of the Metropolitan Police. The police have made unnecessary difficulties for themselves by tending to withhold information which could safely be made public, and the flow of information to the Press Bureau at Scotland Yard has not been sufficient to enable the Bureau to serve effectively the Force and the news media. This tendency has been encouraged because at times openness with the news media has resulted in incorrect or unfairly critical reporting to which the natural reaction is to be less forthcoming in the future. But I have no doubt that it is in the interests of the Force to seek a better working relationship with the press, television and radio. It is my firm belief that the Metropolitan Police have a great deal more to be proud of than the public know and that a little more openness with the news media, heightening trust, confidence and co-operation, is all that is required to correct that ignorance. In particular, there is convincing evidence that given an opportunity to do so the press, both as individuals and collectively, will give a great deal of support to the Force. I have therefore decided, with the full support of the Deputy and Assistant Commissioners, to introduce various changes in policy and practice with the aim of bringing about, over a period of time, a better relationship with the news media and consequently a better understanding on their part and that of the public of the Force's problems and policies.

DISCLOSURE OF INFORMATION DIRECT TO THE NEWS MEDIA

(5) The aim should be to provide for the supply to the news media of factual information within officers' knowledge about incidents at as low a level as possible. Provided an embargo has not been imposed at higher level and disclosure would not compromise judicial processes in either criminal or disciplinary cases factual information may be so supplied by any officer of the rank of inspector or above, or by any officer of lower rank who has the prior authority of an officer of the rank of inspector or above. It will be for commanders, detective chief superintendents and chief superintendents in charge of sub-divisions to ensure that officers under their command are fully briefed on the levels at which and extent to which factual information may be supplied. Statements on matters of policy, however, must continue to be referred to the senior departmental officers concerned.

(6) Where the necessary confidence and trust has developed between the Force and the press there may be occasions when senior officers will feel able to talk to reporters on an "off-the-record" basis, dealing with matters not for public disclosure, explaining reasons for maintaining confidentiality and specifying what might be published at that stage. It will be for commanders

to decide at what levels within their areas of responsibility such discretion may be exercised. Whenever there is doubt about the advisability of supplying information to the press the advice of the News Branch or Divisional Press Liaison Officer should be sought or enquiries referred to the Press Bureau. When this is done all relevant details should be supplied immediately.

(7) In all dealings with the news media a sympathetic and flexible attitude is to be adopted. So far as possible I wish the Force to speak for itself and the result will be to place more authority and responsibility upon all officers. The new approach to dealings with the news media will of course involve risks, disappointments and anxieties; but officers who act and speak in good faith may be assured of my support even if they make errors of judgement when deciding what information to disclose and what to withhold. I fully accept that if the new measures are to succeed in their objective some mistakes will be made in the process.

SUPPLY OF INFORMATION TO THE PRESS BUREAU

(8) If the new policy is to succeed the flow of information to the News Branch through the Press Bureau must be increased and speeded up so that all news items which may be of interest to the media can be made available to them at the earliest possible moment. It is equally important that there should be a helpful, prompt and flexible response to requests from the Bureau for information needed to answer enquiries and it should not always be necessary for the divisional commander or the investigating officer in a case to be contacted when the Press Bureau are seeking information to answer enquiries or clarify facts: on many occasions points of fact could be dealt with at a lower level. The Bureau should be told of any reasons why information should not be disclosed or if there are any special reasons why publicity would be helpful. The Bureau, and indeed the News Branch as a whole, cannot operate effectively without the close co-operation and support of all members of the Force.

(9) If good relations with all the news media are to be established and maintained it is vital that any information given direct to one or more representatives should be passed on immediately to the Press Bureau who will decide whether in fact it should be regarded as exclusive information or whether it can be made generally available. Editors and senior executives of the news media are in general opposed to any kind of "lobby" system whereby certain reporters are given preferential treatment as regards disclosure of information.

NEW PRESS IDENTIFICATION CARD AND FACILITIES TO BE MADE AVAILABLE

(10) Following a review carried out in conjection with senior representatives of the news media, it has been decided to introduce a re-designed and re-worded press card. The revised card, which will continue to identify the holder and to bear his or her photograph will be brought into use in the near future. Facsimiles will be provided for display at stations and all officers are to make themselves completely familiar with the form of the card. It is crucial to the success of the altered approach to relations with the news media that in future holders of the press identification card should find it of real value in day-to-day dealings with the Metropolitan Police, carrying a significance which is readily recognised and accepted by all members of the Force. To this end the wording of the new card will lay emphasis on the facilities available to news media representatives rather than the penalties which may be invoked in the event of misuse and will declare that holders should be given all reasonable police assistance to perform their duties. The press card will not carry an automatic right of access to the scene of an incident or convey authority to pass police lines since these must remain matters for the judgement of the senior police officer at the scene. However, in normal circumstances card-holders are to be provided with all such information and opportunities for access as can be made available.

(11) Although special facilities cannot be accorded to non-holders of Metropolitan and City Police press cards, wherever possible I wish the Force to endeavour to meet the reasonable needs of bona fide representatives of the news media*, who are not Metropolitan and City Police press card holders but who may have to undertake, from time to time or in an emergency, an assignment in which police assistance is needed, for example at a major incident. However, where regular enquiries are received from non-card holders the matter is to be brought to the attention of the Press Bureau.

LIAISON WITH THE LOCAL PRESS

(12) The more open approach to the news media and the increased supply of information, either direct or via the Press Bureau, is intended to apply to all spheres of the press, television and radio--national, regional and local. So far as the local press is concerned, officers in charge of stations have previously been authorised to give representatives of local newspapers items of purely local news which come to their knowledge. As a further step to improve the supply of information the practice which is already widespread whereby a designated officer is responsible for liaison with the local press on a day-to-day basis is to be

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*Members of the Press, such as those holding membership cards of the NUJ, the IOJ or appropriate unions and associations

extended to every station. Commanders or nominated senior officers should hold briefing meetings once or twice a year for all officers so designated at which the Divisional Press Liaison Officer and a senior 'P' Department representative should be present. It would also be helpful if local press reporters could have the opportunity for regular contact, say at weekly or fortnightly intervals, with an officer of chief inspector or inspector rank at their local station. I am sure there is a great deal more news of purely local interest which could be made available without transgressing any of the principles of confidentiality that the Force is required to observe. It must be remembered, however, that any items of news which may be of wider interest should also be made generally available via the Press Bureau.

TRAINING

(13) The new policy will depend for its success on the growing understanding by polic officers at every level of the need for a good relationship with the news media. The achievement of this depends to some extent upon those responsible for training. Basic training should therefore touch on the general concept of the new policy and intermediate and higher training should stress the advantages to be derived from the avoidance of unnecessary secrecy and from the achievement of mutual trust between the Force and the news media. A growing confidence, not likely to be impaired by inevitable occasional criticism of each other, should prove of great benefit to the police and the news media and thus to society itself.